

Message

From: John Mays [jmays@powertechuranium.com]
Sent: 12/4/2020 5:35:41 PM
To: Robinson, Valois [Robinson.Valois@epa.gov]
Subject: [SPAM-Sender] Re: Clarification of process for appeal of EPA's aquifer exemption decision associated with the Dewey Burdock UIC Class III Area Permit

Valois,

In the below regulation can you confirm that appeal to the aquifer exemption would fall under (1) or (2)? I am assuming (2) but just want to confirm

42 U.S. Code § 300j-7 - Judicial review

a)Courts of appeals; petition for review: actions respecting regulations; filing period; grounds arising after expiration of filing period; exclusiveness of remedyA petition for review of—

(1)

actions pertaining to the establishment of national primary drinking water regulations (including maximum contaminant level goals) may be filed only in the United States Court of Appeals for the District of Columbia circuit; and

(2)

any other final action of the Administrator under this chapter may be filed in the circuit in which the petitioner resides or transacts business which is directly affected by the action.

Any such petition shall be filed within the 45-day period beginning on the date of the promulgation of the regulation or any other final Agency action with respect to which review is sought or on the date of the determination with respect to which review is sought, and may be filed after the expiration of such 45-day period if the petition is based solely on grounds arising after the expiration of such period. Action of the Administrator with respect to which review could have been obtained under this subsection shall not be subject to judicial review in any civil or criminal proceeding for enforcement or in any civil action to enjoin enforcement. In any petition concerning the assessment of a civil penalty pursuant to section 300g-3(g)(3)(B) of this title, the petitioner shall simultaneously send a copy of the complaint by certified mail to the Administrator and the Attorney General. The court shall set aside and remand the penalty order if the court finds that there is not substantial evidence in the record to support the finding of a violation or that the assessment of the penalty by the Administrator constitutes an abuse of discretion.

Thanks,

John



John M. Mays

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From: "Robinson, Valois" <Robinson.Valois@epa.gov>

Date: Friday, December 4, 2020 at 7:52 AM

To: John Mays <jmays@powertechuranium.com>

Subject: RE: Clarification of process for appeal of EPA's aquifer exemption decision associated with the Dewey Burdock UIC Class III Area Permit

Hi John,

Yes, the permit appeals go to the EAB and have the 30-day deadline. You are probably aware of the new rules:

<https://www.epa.gov/newsreleases/trump-administration-finalizes-rule-streamline-and-modernize-epa-permit-process>

Valois

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From: John Mays <jmays@powertechuranium.com>

Sent: Friday, December 4, 2020 8:32 AM

To: Robinson, Valois <Robinson.Valois@epa.gov>

Subject: [SPAM-Sender] Re: Clarification of process for appeal of EPA's aquifer exemption decision associated with the Dewey Burdock UIC Class III Area Permit

Valois,

Thanks for this. Does this apply only to the Aquifer Exemption Document? Would the other documents have a 30 days deadline for filing an appeal with this ending on December 24th?

John



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From: "Robinson, Valois" <Robinson.Valois@epa.gov>

Date: Thursday, December 3, 2020 at 5:11 PM

Subject: Clarification of process for appeal of EPA's aquifer exemption decision associated with the Dewey Burdock UIC Class III Area Permit

To clarify the process for appeal of EPA's decision regarding the aquifer exemption associated with the EPA Dewey Burdock Class III Area Permit, EPA has updated the UIC Program website with the following information:

Appeals of the aquifer exemption associated with the Dewey Burdock Class III Area Permit must be filed in accordance with 42 USC § 300j-7, not 40 CFR § 124.19, because it is a final agency action independent from the permit. See *In re Florence Copper*, 17 EAD 406, 419 (EAB 2017). Pursuant to 40 CFR § 23.7, the 45-day period discussed in 42 USC § 300j-7(a)(2) begins two weeks after the date of signature of the aquifer exemption. Therefore, appeals of this aquifer exemption have to be filed by January 22, 2021.

<https://www.epa.gov/uic/epa-dewey-burdock-class-iii-and-class-v-injection-well-final-area-permits>

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